From: William M. Shubert
To: Microsoft ATR
Date: 1/23/02 2:04pm
Subject: Microsoft Settlement

To Renata Hesse,

I am writing in regards to the proposed settlement with Microsoft. In short, I find it appallingly weak. I have been in the computer industry for over ten years now, and have seen up close what Microsoft's business practices have been. When I heard Judge Jackson's ruling, that Microsoft was not only a monpoly but had used its monopoly status to harm its competitors, I was relieved. I have long felt that Microsoft is not only willing but eager to do anything it takes to take away market share from its competitors; usually this is not a problem, in fact it may be considered admirable determination in most companies. The difference is that Microsoft's operating system monopoly (and more recently the monopolies in word processing and spreadsheets) gives it opportunities to "win" a market not by producing a better product but by sabotaging the products or marketing plans of its competitors, and Microsoft has used these tecniques repeatedly, to the detriment of both consumers and the overall computer industry. This relief at Judge Jackson's ruling turned to dismay when I read the new settlement.

The new settlement, in my view, does little or nothing to prevent Microsoft from continuing its current practices. Most parts of the settlement "sound right" if you skim over it, but in fact every single part has loopholes or weaknesses that render the entire settlement ineffective. In fact, the settlement reads as if it were written by Microsoft itself, trying to find a document that would do nothing but provide a smokescreen that Microsoft can hide behind as it continues its business as usual.

What follows is a couple specific examples of problems with the settlement; I could have written many more!

First, Part III.E of the settlement states that Microsoft must provide information to others about its communications protocols. This sounds good; one of the things preventing people from switching to non-microsoft operating systems is the difficulty of getting non-microsoft systems to work together with the existing microsoft-based computers. But when this paragraph is read carefully, it is found to be lacking; for example, the protocols must be distributed, but only under "reasonable and non-discriminatory terms." But reasonable and non-discriminatory in whose view? The free unix variants are now Microsoft's biggest competitors, but any non-disclosure or per-sale fee would be completely impossible for these competitors to meet due to their open source and freely distributed nature! Thus one of the paragraphs which will do most to enable Microsoft's current competitors

to compete is made completey useless.

Second, there is absolutely nothing in the settlement to deal with Microsoft's past abuses of its monopoly status. Microsoft had been put under restrictions for its monopolistic practices before, and it was found to be still acting as a harmful monopoly, but yet it's punishment is only more restrictions? What is the point of placing restrictions on Microsoft if when they are violated the punishment is essentially nonexistant? It seems that Microsoft must be given a punishment, not out of spite, but just to ensure that this new set of restrictions will not be ignored as the previous ones were.

Sincerely,

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